



Police Investigations &
Review Commissioner



AGREEMENT

between

THE POLICE INVESTIGATIONS & REVIEW COMMISSIONER

AND

THE COMMISSION FOR RECONCILIATION AND INFORMATION RECOVERY

Document Title	ICRIR – PIRC Agreement
Version	V1
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GLOSSARY

Term	Explanation
Chief Commissioner	The Commissioner appointed under section 2(3)(a) of the Northern Ireland Troubles (Legacy and Reconciliation Act) 2023
Commissioner for Investigations	The Commissioner appointed under section 2(3)(b) of the Northern Ireland Troubles (Legacy and Reconciliation Act) 2023
The Commissioner	Police Investigations & Review Commissioner
ICRIR	The Independent Commission for Reconciliation and Information Recovery
ICRIR officers	The Commissioner for Investigations; permanently appointed ICRIR officers; and persons on secondment to the ICRIR who are serving as ICRIR officers
Designated ICRIR officers	A person employed or seconded to be an officer of the ICRIR, including the Commissioner for Investigations, and designated under section 6 of the 2023 Act with the powers and privileges of a constable.
COPFS	Crown Office and Procurator Fiscal Service
The PIRC	The Police Investigations and Review Commissioner
ECHR	European Convention on Human Rights
DPA Act	Data Protection Act 2018
UK GDPR	The UK General Data Protection Regulations
'the 2023 Act'	Northern Ireland Troubles (Legacy and Reconciliation) Act 2023

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'the 2006 Act'	The Police Public Order and Criminal Justice (Scotland) Act 2006 Act, as amended
'the 2007 Order'	The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007
'the 2012 Act'	Police and Fire Reform Act 2012
'the 2013 Order'	The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013
'the 2016 Act'	Criminal Justice (Scotland) Act 2016
SFIU	Scottish Fatalities Investigation Unit
SPR	Standard Prosecution Report
CAAPD	Criminal Allegations Against The Police Division

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1. Introduction

1.1 This Agreement is made between:

- The Independent Commission for Reconciliation and Information Recovery, an independent Commission established by the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 and having a place of business at 32 Great Victoria Street, Belfast.

and

- The Police Investigations and Review Commissioner, appointed under and in terms of section 33 of the Police, Public Order and Criminal Justice (Scotland) Act 2006, as amended and having their Head Office at Hamilton House, Hamilton Business Park, Caird Park, Hamilton. ML3 0QA.

2. Purpose

2.1 The purpose of this Agreement is to set out how the PIRC will undertake independent investigations at the request of the Commissioner for Investigations into serious incidents involving designated ICRIR officers exercising the powers and privileges of a constable in Scotland. It is not intended to be legally binding; instead it provides a framework pursuant to which the parties will cooperate in relation to relevant serious incidents.

2.2 This Agreement gives cognisance to the requirements of the European Convention on Human Rights (ECHR) and decisions of the European Court of Human Rights (ECtHR) and the European Commissioner for Human Rights relating to the need for independent investigations of the actions of state agencies that engage Article 2 and 3 of the ECHR, including serious incidents involving designated officers of the ICRIR exercising any of the principal functions.

2.3 This Agreement is made pursuant to Article 3(17A) of the Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013, as amended (the 2013 Order). Under Article 3(17B) of the 2013 Order, a 'serious incident involving the ICRIR' has the same meaning as a 'serious incident involving the police' in Section 41B of the Police, Public Order and Criminal Justice (Scotland) Act 2006, as amended except that 'a person serving with the police' means an officer of the ICRIR who is designated (which has the same meaning as in the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023. The ICRIR is also empowered to enter into Agreements, whether legally binding or not, if it thinks necessary or expedient in connection with the exercise of its functions, pursuant to Schedule 1, Part 1, s2(1) and (2) of the 2023 Act.

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2.4 This Agreement sets out procedures and processes for the respective parties and any member of their staff, to adhere to in respect of the provision, sharing and exchange of information or services to allow each organisation to fulfil their functions and where necessary, obligations under legislation.

2.5 This Agreement only relates to the investigative functions of the PIRC.

3. Reviewing the Agreement

3.1 This Agreement becomes effective on when it is approved by the Secretary of State and Scottish Ministers.

3.2 The Agreement will be reviewed every 3 years. Any of the parties may request a review at an earlier stage. All requests for a review at an earlier stage will be made in writing and interim reviews must be implemented should there be any amendments to the existing legislative framework within which the Agreement operates. Formal variations to the Agreement may only be made in writing and agreed by both parties.

3.3 Any party may seek to terminate this Agreement giving 1 months' notice, in writing, to all other parties.

4. PIRC Investigations

4.1 The PIRC will undertake either investigations directed by the Crown Office and Procurator Fiscal Service (COPFS), or investigations referred by the ICRIR.

4.2 COPFS directed investigations will take place:

- When the PIRC is directed by the relevant prosecutor to investigate any circumstances in which there is an indication that a designated ICRIR officer may have committed an offence.
- When the PIRC is directed to investigate on behalf of the relevant prosecutor, the circumstances of any death involving a designated ICRIR officer which that prosecutor is required to investigate under section 1 of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016.

4.3 ICRIR referred investigations will take place:

- a) when the PIRC is requested by the Commissioner for Investigations to investigate and report on serious incidents involving a designated ICRIR officer exercising the powers and privileges of a constable; in a circumstance in or in consequence of which a person has died or has sustained serious injury where:

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- i. the person, at or before the time of death or serious injury, had contact (directly or indirectly) with a person serving with the ICRIR acting in the execution of that person's duties; and
 - ii. there is an indication that the contact may have caused (directly or indirectly) or contributed to the death or serious injury;
 - b) any other circumstance in or in consequence of which:
 - i. a person has otherwise sustained a serious injury at a time when the person was being detained or kept in custody by designated ICRIR officer; or
 - ii. a designated ICRIR officer has used a firearm or any other weapon of such description as the Scottish Ministers may by regulations specify.
- 4.4 The Commissioner for Investigations agrees to refer to the PIRC all serious incidents involving any designated ICRIR officer exercising the powers and privileges of a constable in Scotland, with 'serious incident' having the same meaning as set out under sections 41B (1) (a) and (b) of the Police, Public Order and Criminal Justice (Scotland) Act 2006, but not as specified in regulations made under 41B (1) (c) of the same Act.
- 4.5 This Agreement does not apply to any matter that relates to the direction and control of the ICRIR by the Commissioner for Investigations.
- 4.6 Cross border incidents, or incidents for which the PIRC's jurisdiction is in question, will be considered on a case by case basis upon referral to the PIRC by the Commissioner for Investigations.
- 5. Referrals by the Commissioner for Investigations to the PIRC**
- 5.1 The PIRC's on-call arrangements provides the appropriate prosecutor and policing body with a call out response to urgent incidents on a 24-hour basis, 365 days a year.
- 5.2 Notification timescales are set out in Section 6.
- 5.3 Referrals will be made by the Commissioner for Investigations.
- 5.4 The referral to the PIRC will normally take the form of a briefing document outlining the full circumstances of the incident. The briefing document may be accompanied by statements, CCTV or any other material considered appropriate by the Commissioner for Investigations to allow the PIRC to gain an understanding of the incident.

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- 5.5 Where insufficient information is available to allow the PIRC to determine whether or not an investigation is required, the PIRC may request additional material from the ICRIR to assist their assessment.
- 5.6 The PIRC will assess the referral from the ICRIR and decide whether to investigate the incident. The PIRC undertakes to complete its assessment within 5 working days of receipt of the referral (and any additional material provided) and notify the ICRIR of its decision.
- 5.7 Deaths and serious injury in ICRIR custody, deaths following ICRIR contact or discharge of conventional firearms leading to injury (to note there is no intention that any designated ICRIR officers are firearms' officers) may be referred verbally to the PIRC by the ICRIR to allow immediate decisions to be taken. A follow up briefing document and other relevant material will be provided to the PIRC as soon as practicable thereafter.
- 5.8 Where the ICRIR instigates Post Incident Procedures (PIP) following a death or serious injury, the PIRC will be notified immediately of the decision by the ICRIR and afforded the opportunity to attend the incident and PIP suite. Such a notification will be considered a referral to the PIRC. Police Scotland would have primacy in any PIP involving a death in a Police Scotland custody suite.
- 5.9 Where the ICRIR refers a matter which arises from a 'Whistle-blower', the status of the Whistle-blower will be clearly identified to the PIRC. The ICRIR will only name a whistle-blower where identification is permissible by law.

6. Notification Timescales

- 6.1 Notification timescales:
- For a death or serious injury following contact with the ICRIR and where it is considered that there may be contributable or causal factors notification will occur as soon after the incident as reasonably practicable;
 - For incidents out with office hours, notification will occur within 24 hours of the incident or on the Monday following an incident occurring at a weekend.
 - For incidents, including use of Taser, notification will occur within 24 hours of the Commissioner for Investigations being informed of the incident or on the Monday following an incident occurring at a weekend.

7. COPFS directed investigations

- 7.1 The COPFS may direct the PIRC to undertake investigation of a death in custody or death following ICRIR contact or in relation to allegations of criminal conduct against a designated ICRIR officer.

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- 7.2 The ICRIR will notify the PIRC of any death following ICRIR contact where it is considered that there may be contributable or causal factors. The COPFS may direct the PIRC to investigate the circumstances (Section 33A (b) (ii) of the 2006 Act) or if the Commissioner for Investigations makes the referral only, the PIRC may decide to investigate the circumstances under the 2013 Order.
- 7.3 The procedure for reporting and investigation between the COPFS and the ICRIR is subject of a separate Agreement between those parties.

8. Misconduct

- 8.1 The PIRC has no powers or authority to undertake misconduct investigations against a designated ICRIR officer.
- 8.2 The PIRC recognises that where it identifies actions which may breach the Standards of Professional Behaviour or may be considered a performance matter and where there is scope for improvement(s), there is a legitimate public interest and expectation that such matters will be investigated or considered and ultimately improved. Where the PIRC identifies potential breaches of Standards of Professional Behaviour or a performance issue(s) during any investigation, it will notify the ICRIR to allow them to conduct the necessary internal investigation.
- 8.3 Section 46 of the 2006 Act provides that the PIRC may disclose information obtained during the course of an investigation for the purpose of enabling the ICRIR to carry out any function. Nothing in that section requires or authorises the disclosure of any information relating to a particular investigation carried out by the Commissioner on the direction of the appropriate prosecutor under section 33A(b) of the 2006 Act (unless the appropriate prosecutor consents to such disclosure).

9. Co-operation, Assistance and the Provision of Information

- 9.1 Any designated ICRIR officer of the ICRIR may make a disclosure to the PIRC for the purpose of enabling the PIRC to discharge their functions as agreed with the Commissioner for Investigations. Article 3(1) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007 provides that any person may disclose information to the PIRC if, the disclosure is made for the purposes of the exercise or carrying out by the PIRC of any of the Commissioners functions within the meaning of the Act. The ICRIR is also empowered to disclose information obtained in connection with its functions under section 30 of the 2023 Act, subject to the statutory restrictions on disclosure outlined in section 30 and Schedule 6.
- 9.2 The Commissioner for Investigations agrees that any ICRIR officer where requested by the Commissioner, for the purposes of an investigation produce

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in a form acceptable to the Commissioner, any document, record or other information the Commissioner may require to the extent that such disclosure is permissible by law.

- 9.3 The Commissioner will issue a notice in the form of a letter to the ICRIR setting out the nature of the investigation and requesting information, documents or other records required for the purposes of the investigation.
- 9.4 Section 46 of the 2006 Act allows for the disclosure of information by the PIRC. Information obtained by the Commissioner in connection with any of the Commissioner's functions may be disclosed by the Commissioner to any public body or office-holder:
- a) for any purpose connected with the carrying out of any of the Commissioner's functions;
- or
- b) for the purpose of enabling or assisting the public body or office-holder to carry out any function.
- 9.5 Nothing in this section requires or authorises the disclosure of any information relating to a particular investigation carried out by the Commissioner on the direction of the appropriate prosecutor in pursuance of paragraph (b) of section 33A (unless the appropriate prosecutor consents to such disclosure).
- 9.6 All PIRC investigators are vetted to a minimum SC level with certain staff also vetted to DV Level. The PIRC will ensure that all documents, records or other information are examined only by staff vetted to do so. PIRC investigators do not fall into a category of person allowed to access 'raw' material which would include knowledge of who was intercepted. The Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA) enables the PIRC where necessary for the purposes of an investigation to access sanitised intelligence where the origin is not disclosed to the PIRC.
- 9.7 RIPSA does not differentiate 'classes' of material which may be required by or provided to the PIRC to allow it to investigate any matter.
- 9.8 The provision of sensitive and intelligence material gives rise to additional concerns regarding its use, storage and handling. The PIRC recognise the fundamental requirement to manage intelligence material appropriately, particularly that arising from secret or sensitive sources and give due weight to any concerns expressed by the ICRIR in respect of such material and sources.
- 9.9 Further to 9.2 above, where an ICRIR officer is a witness to the matter being investigated, the PIRC may request them to produce information in the form

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of a witness statement or have the information produced in the form of a witness statement taken from them by PIRC investigators.

- 9.10 The ICRIR may request any ICRIR officer, who is a witness in a PIRC investigation to cooperate with the investigation and provide any document, record or other information, which may include the provision of a witness statement or witness account.
- 9.11 Where an ICRIR officer, who PIRC considers to be a witness, refuses to co-operate with a PIRC investigation through the provision of information, the PIRC will notify the Commissioner for Investigations accordingly for their consideration or appropriate action.
- 9.12 The ICRIR and the PIRC will work co-operatively in the obtaining by the PIRC of any witness testimony provided by any person identified as a witness in a PIRC investigation.
- 9.13 The PIRC will take cognisance of the needs of any person identified to the PIRC as having or who identifies that they have a 'relevant protected characteristic' and put in place any necessary or reasonable adjustments in order to facilitate the gathering of their evidence.

10. Investigation Processes

- 10.1 The PIRC will notify the Commissioner for Investigations, in writing, of any decision to investigate or of the COPFS instruction to investigate an incident or criminal allegation.
- 10.2 The PIRC will appoint a member of its Investigations staff as the lead investigator for any investigation and notify the ICRIR.
- 10.3 The PIRC will make clear the status of any person involved in an investigation (witness or suspect). If a person's status changes, the ICRIR and the person will be notified accordingly. The ICRIR will notify any designated ICRIR officer when they are the subject of a criminal investigation by the PIRC, unless the investigation may be hampered in doing so. The PIRC will ensure the ICRIR is informed when they can advise their officers at the earliest opportunity to allow appropriate welfare support.
- 10.4 The ICRIR agree to appoint an appropriate 'Single point of contact' (SPOC) for every PIRC investigation to facilitate the acquisition and provision of any document, record or other information to the PIRC. The SPOC will also be the conduit for facilitating any witness interview of an ICRIR officer. Where a SPOC is on annual leave or absent during a PIRC investigation, they will identify another person to undertake their role.

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- 10.5 For complex investigations, involving more than one business area of the ICRIR it may be necessary to appoint additional SPOCs to facilitate the provision of information, etc.
- 11. PIRC Reports**
- 11.1 PIRC produce different reports dependent on the type of investigation:
- Standard Prosecution Report (SPRs) – submitted to the COPFS
 - CAAPD reports – submitted to the COPFS;
 - Death investigation reports – submitted to the COPFS;
 - Investigation reports – submitted to the Commissioner for Investigations.
- 11.2 The PIRC may publish:
- The ICRIR referred investigation reports;
 - COPFS death reports where the COPFS have decided that no Fatal Accident Inquiry will take place; and where Agreement has been obtained from the COPFS prior to publication.
- 11.3 The PIRC will not publish:
- SPRs or CAAPD reports;
 - Death reports where an FAI is to be or has been held;
- 11.4 The PIRC produces two types of report in respect of investigations referred by the ICRIR:
- Full reports; and
 - Public Facing reports.
- 11.5 Full reports contain all the details of the PIRC investigation and are for consideration by the ICRIR. Full reports contain the names of any person relevant to the investigation. Full reports are not published.
- 11.6 Public facing reports are published and contain a summary of the investigation, findings and recommendations but do not normally identify any person.
- 11.7 Prior to the issuing of any report, the PIRC will submit a draft of the Full report and Public Facing report to the ICRIR for factual accuracy checking. The PIRC will take cognisance of any identified error of fact, omission or additional representation made by the ICRIR before finalising the report. Where significant changes are requested, the PIRC will re-submit the draft report for a further factual accuracy check prior to publication.

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- 11.8 Where the ICRIR has taken steps, implemented change or introduced revised policies and procedures as a result of their own internal review of the matter subject to investigation, the PIRC should be notified during the factual accuracy check and may make mention of these measures within their published report. The ICRIR may also issue a public statement detailing any steps taken or changes implemented.
- 11.9 Where the PIRC identify any matter, during the course of any investigation, which may impact on the public, or an ICRIR designated ICRIR officer's safety and require immediate action by the ICRIR the PIRC will notify them at that time and not wait until the issuance of its report.
- 11.10 Prior to publication of a Public Facing report, the PIRC will provide the ICRIR with at least 48 hours' notice of the date and time of publication.
- 11.11 The PIRC will issue its reports to:
- Full Report – The Commissioner for Investigations;
 - Public Report – The Commissioner for Investigations
- 11.12 The PIRC may issue its reports to;
- Public Report – COPFS and HMICS
- 11.13 The PIRC's reports may contain Findings and Recommendations.
- 11.14 Recommendations are designed to address any issues identified as a result of the investigation. Recommendations may be specific to the investigation or to address wider issues identified as a result of the investigation.
- 11.15 The ICRIR will notify the PIRC within 3 months of receiving the report of any steps taken or measures implemented to address the Recommendations.
- 11.16 Where the Commissioner for Investigations disagrees with any Findings or Recommendations, they should identify this during consideration of the draft report and their view will be taken cognisance of by the PIRC prior to finalising the report.

COPFS directed Investigations

- 11.17 In terms of a COPFS directed investigation, the PIRC will submit its report to the appropriate prosecutor.
- 11.18 The PIRC will notify the ICRIR at the time it is directed by COPFS to investigate any matter, of the nature of the investigation.

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- 11.19 Where the PIRC are directed to undertake a criminal investigation, it will notify the ICRIR of the identity of any designated ICRIR officers who are subject to investigation and the nature of the allegations. This is to allow the ICRIR to consider implementing certain decisions to mitigate the risk to the public, the designated ICRIR officer and the ICRIR. This may include 'Duty Restrictions' or, suspension from duty. It will also allow for other measures, including welfare considerations, for a designated ICRIR officer. The ICRIR will notify the designated ICRIR officer that they are subject to a criminal investigation by the PIRC.
- 11.20 The PIRC will notify the ICRIR when it submits an SPR or CAAPD report to the COPFS. This notification will provide details of the alleged offences and the category of the submitted report in order for the ICRIR to consider their obligations under applicable conduct or discipline regulations.

12. Family Liaison

- 12.1 Following any death investigated by the PIRC, Family Liaison officers (FLOs) may be deployed.
- 12.2 Responsibility for notification of the death to family members (immediately following the death) rests with the police. This is the case irrespective of who the investigating agency will be.
- 12.3 PIRC FLOs may be deployed in the following instances:
- Death in custody,
 - Death following contact with the ICRIR; or
 - In investigations, not involving death, where the involvement of FLOs may enhance the gathering of evidence from family members and/or the provision of information and assistance.
- 12.4 Where Police Scotland has deployed FLOs following a death, as the initial investigating agency, and there is a later decision that the investigation should be undertaken by the PIRC, responsibility for family liaison should transfer to the PIRC FLOs. Taking cognisance of the need to effectively support the family, it is imperative that during the initial decision making stage and any handover there are no gaps in the provision of support to the family. All decisions will be documented. This will be covered and agreed within any initial strategy meeting or discussions.
- 12.5 The PIRC FLOs will take cognisance of the needs of any person identified to the PIRC as having or who identifies that they have a 'relevant protected characteristic' and put in place any necessary or reasonable adjustments in order to facilitate the gathering of their evidence or the provision of information to them.

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13. Suspect Interviews and Arrest procedures

- 13.1 PIRC investigators have all the powers and privileges of a constable when undertaking any investigation on behalf of the Commissioner.
- 13.2 During the course of a criminal investigation the PIRC investigators may require to interview a designated ICRIR officer as a suspect.
- 13.3 The PIRC will notify the Commissioner for Investigations of any intention to interview a designated ICRIR officer as a suspect.
- 13.4 The PIRC will not normally arrest a member of the ICRIR at their home or place of work, unless in specific circumstances this is deemed appropriate.
- 13.5 The Commissioner for Investigations will notify the designated ICRIR officer that they are to be subject to a suspect interview and invite them to present themselves at a suitably identified time and date, at an identified police station, for the purposes of interview.
- 13.6 Where it is practicable to do so, PSD Police Scotland will appoint a dedicated liaison officer to any PIRC investigation where a designated ICRIR officer is to be subject to a suspect interview. The role of that PSD officer where possible will be to facilitate all aspects of the PIRC interview including, identification of suitable premises, access to premises, video and audio recording equipment and briefing of custody staff.
- 13.7 The PIRC undertakes, insofar as may be practicable, that if any designated ICRIR officer attend for interview under caution or are arrested (not officially accused), their attendance / arrest will where practicable be arranged by through the Commissioner for Investigations.
- 13.8 The PIRC arrests will be planned in advance and the appropriate Criminal Justice Services Division (CJSD) Area Commander from Police Scotland will be alerted by PSD staff, allowing the relevant Police Scotland Custody staff to be informed.
- 13.9 In the event that a spontaneous arrest has to be presented by the PIRC at a Police Scotland custody suite then the relevant Police Scotland Custody Staff – anticipated to be the Chief Inspector / Area Commander or on call Criminal Justice Services Division Chief Inspector and the on-duty Custody Review Inspector and Force Custody Inspector - should be notified immediately. When a PIRC arrest is within a custody suite the relevant custody supervisors will require to consider the wider impact on the routine running of the custody suite and to consider any protections or limitations that require to be put in place.

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- 13.10 Care and Welfare - whilst a designated ICRIR officer is under arrest in custody, responsibility for the individual's care and welfare rests with Police Scotland.
- 13.11 The PIRC will inform the custody supervisor at the custody suite of the identity of the nominated PIRC investigator who will be responsible for custody decisions relating to the investigation.
- 13.12 The National Custody System (NCS) will remain the recording platform for all matters relating to the care and welfare of an individual whilst they are in custody. The PIRC staff are not NCS trained and will have no access to the system.
- 13.13 Police Scotland custody staff will record on the NCS all required information other than the rationale for the PIRC custody decisions which will be recorded as 'Decision taken by the PIRC and recorded on the PIRC Policy File'.
- 13.14 A PIRC Deputy Senior Investigator (DSI) (or above) will undertake all custody related decisions in respect of:
- Authorisation for keeping in custody
 - Custody Review
 - Investigative Liberation – release on conditions
 - Modification or removal of conditions
 - Release on Undertaking
 - Rights to have a solicitor present
 - Right to have intimation sent to another person
 - Right to have intimation sent to a solicitor
 - Right to consult with a solicitor
- 13.15 The 6 hour review process and any extension beyond 12 hours are duties - that are normally completed by the Police Scotland Custody Review Inspector – will be undertaken by a PIRC Senior Investigator who will consult with the Custody Review Inspector to ensure the decision is recorded on NCS.
- 13.16 Where a PIRC DSI authorises the taking of Criminal Justice samples, these will be taken by Police Scotland staff.
- 13.17 The PIRC will take cognisance of the needs of any person identified to the PIRC as having or who identifies that they have a 'relevant protected characteristic' and notify Police Scotland custody staff /PSD of any necessary or reasonable adjustments required to be put in place.
- 14. Information Management and data protection obligations**
- 14.1 The parties acknowledge that information exchanged pursuant to this Agreement will include personal data, as defined by the UK GDPR and Data

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Protection Act 2018. The parties will only use and process such data only for the purpose set out in this Agreement and only in accordance with all applicable law, and in particular the UK GDPR and DPA.

- 14.2 The parties will not use the data for any purpose other than as set out in this Agreement, except with the prior consent of the other party.
- 14.3 The parties understand that once in receipt of the other's data, they will become a data controller for that data and will be responsible for complying with the principles of the DPA in relation to its further processing of that data. The data controller will be responsible and liable for any subsequent data loss or breach of the data protection principles resulting from the processing by them. In the event of any data loss or other breach of the data protection principles, the data controller will promptly notify the other party and confirm next steps. The relevant data controller will be responsible for any action necessary to resolve or notify the incident to the Information Commissioner. If either party receives a data subject access request which may include personal data derived from the other, they shall immediately notify the other party and work with that party in relation to the response, however, the responsibility for responding to a request ultimately lies with the data controller to whom the request was made.
- 14.4 The parties will only retain personal data for the period necessary to fulfil the purpose set out in this Agreement. Where there is no longer a need to retain personal data, the data shall be securely deleted in line with the parties' own respective retention schedules.
- 14.5 The parties will take appropriate security, technical and organisational measures to protect the data from unauthorised access and from any loss or damage.
- 14.6 The parties will notify each other of relevant requests made under the Freedom of Information (Scotland) Act 2002 /Freedom of Information Act 2000, however, and as with Subject Access Requests, the ultimate decision regarding disclosure will rest with the party to whom the request is made as they are the organisation with the statutory duty to respond.

15. Communications & the Media

- 15.1 The ICRIR and the PIRC have communication teams that manage liaison with the media.
- 15.2 Following any incident which involves a matter falling within the scope of the 2006 Act, or the 2013 Regulations, whereby the ICRIR agree to refer a matter to the PIRC for consideration of investigation, or an instruction by the COPFS to the PIRC to investigate any matter, there may be media interest or media requests for information.

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- 15.3 Each party recognises the demand that can arise for an immediate news release or statement following any incident.
- 15.4 In order to ensure consistency of the facts provided to the media, the communications teams of the ICRIR and the PIRC should, where feasible, liaise before issuing statements to the media.
- 15.5 In any investigation instructed by the COPFS, the PIRC and the ICRIR will liaise with the COPFS communication team before making any media release.
- 15.6 Prior to the publication of any PIRC investigation report, an 'embargoed' copy of the report and associated media release will be provided to the ICRIR at least 48 hours in advance of publication for information purposes only.
- 15.7 The PIRC may publish an initial statement confirming they have been instructed by the COPFS to investigate a criminal matter but give no other details.
- 15.8 Active' proceedings (i.e. following an arrest)
- Where the media intend to publish anything where proceedings are 'active' the PIRC and the ICRIR communication teams will ensure that the media are made aware of the 'active' status of the proceedings.
 - Proceedings are 'active' on arrest, the granting of a warrant for arrest, the service of an indictment or complaint, or the grant of a warrant to cite.
 - Amended Guidelines issued by the Lord Advocate for Police and the Media will be adhered to.

16. Signatories

Enactment: This Agreement comes into effect on 1 May 2024

M. Macleod

Signed

Date 30/04/2024

Police Investigations & Review Commissioner

Signed

W. Leach

On behalf of the Independent Commission for Reconciliation and Information Recovery

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